

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NEIL MCGINNIS,

Plaintiff,

v.

SECRETARY BERNIE WARNER,
DEPARTMENT OF CORRECTIONS OF
THE STATE OF WASHINGTON, and
SUPERINTENDENT DONALD
HOLBROOK,

Defendants.

NO. 4:14-cv-05075-SAB

**ORDER DENYING LEAVE TO
PROCEED *IN FORMA*
PAUPERIS AND DISMISSING
ACTION FOR FAILURE TO
PAY THE FILING FEE**

By Order filed August 25, 2014, the Court directed Mr. McGinnis to show cause within thirty (30) days why his application to proceed *in forma pauperis* should not be denied pursuant to 28 U.S.C. § 1915(g), given that court records showed that more than three of his civil actions and appeals have been dismissed as frivolous or for failure to state a claim upon which relief may be granted. ECF No. 16. In the alternative, Plaintiff was invited to pay the full \$400.00 fee (\$350.00 filing fee plus \$50.00 administrative fee) in order to commence this action. Plaintiff did not comply.

On August 26, 2014, the Court received 25 pages of documents from Plaintiff which were liberally construed as a third Motion to Appoint Counsel, ECF No. 17. Plaintiff contends that “24 hours a day, 7 days a week & for at least

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1 since June 26, 2012,” he has been subject to “a very specific intent to
2 administratively inflict physical, psychological pain and/or suffering.” ECF No.
3 17, page 3.

4 Throughout his documents Plaintiff has made repeated assertions of sexual
5 assaults and beatings by unidentified guards, allegedly in retaliation for bringing
6 this litigation and to dissuade him from pursuing this litigation. Plaintiff also
7 claims he has received threats that his family members in New England will be
8 raped and murdered unless he drops the present litigation. In light of all that Mr.
9 McGinnis has submitted, the Court is unable to conceive of a circumstance under
10 which these allegations could be true. Although granted the opportunity to do so,
11 Plaintiff has failed to persuade the Court that he is under imminent danger of
12 serious physical injury, which would permit this Court to grant him *in forma*
13 *pauperis* status under 28 U.S.C. § 1915(g).

14 According, **IT IS HEREBY ORDERED:**

15 1. Having failed to show sufficient cause, Plaintiff’s application to
16 proceed *in forma pauperis*, ECF No. 2 is **DENIED**.

17 2. The above-captioned action is **DISMISSED** for failure to pay the
18 filing fee as directed under 28 U.S.C. § 1914(a).

19 3. All pending Motions, ECF No. 5, 7, 14, 15, and 17, are **DENIED as**
20 **moot**.

21 4. Plaintiff shall file no further pleadings in the action, other than an
22 appeal of this Order to the Ninth Circuit Court of Appeals.

23 5. The Court certifies that any appeal of this decision would not be
24 taken in good faith.

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1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this Order, enter judgment, forward a copy to Plaintiff, and close the file.

3 **DATED** this 1st day of October, 2014.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

9 Stanley A. Bastian
10 United States District Judge